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Subject: FAR amendment No. 129-33

Martinair is a FAR 129 carrier based in the Netherlands. We appreciate the opportunity to comment on this final rule / request for comments.

The measures introduced with this final rule are recognized by Martinair as an improvement to inflight security.

We offer the following comments to further improve this rule:

- 129.11(a)(5) is limited to 129.28(a). Why is it not extended to 129.28(c), or deleted at all? It is uncommon to separately identify aircraft meeting specific equipment and installation requirements. E.g. no list of aircraft equipped with TCAS is required either.
- 129.13: The original 129.13 requires that aircraft carry current airworthiness certificates (CoA). The new except clause can be read as a waiver to the requirement to carry a CoA. This would introduce a discrepancy with Article 29 of the Chicago Convention, which requires every aircraft used internationally to carry a valid Certificate of Airworthiness. Certainly, the FAA does not wish to promote that.

What will happen in practice is that the waiver granted pursuant to 129.28(b) will be added to the list of conditions that apply to the CoA. Granted exemptions and waivers do not render a CoA invalid, they are merely a condition for it. It is therefore suggested to keep the old text of 129.13 and perhaps add text in 129.28(b) to clarify that any waiver should become a condition for the CoA's validity.

- 129.28(a) repeatedly refers to 129.1(a), which uses the phrase "operation within the United States". 129.28 however repeatedly uses the phrase "within the United States or on overflights". Is the addition of the word "overflights" intentional? In other words, is an extension of the applicability conditions intended?

- 129.28(a)(2) uses a cockpit door installed reference date of January 15, 2002 for the "features to restrict unwanted entry" requirement which becomes effective 20 August, 2002. The corresponding requirement for procedures, as contained in 129.28(d), which becomes effective on the same date, however uses a cockpit door installed reference date of June 21, 2002. It is suggested that both dates be harmonized.
- 129.28(d)(2) restricts the requirement to close and lock the cockpit door to the condition that passengers are being carried. This would imply that when persons other than passengers are carried in occupied compartments of all-cargo airplanes, there is no need to close and lock the cockpit door. If this is intended, and the preamble text on page 42452, middle column, suggests it is, then perhaps 129.28(a)(2) and 129.28(c) should be rephrased as follows: "... between the pilot compartment and any other *compartment when occupied by persons other than those listed in 129.28(d)(3)*". A consequence of this will be that all-cargo airplanes which, in addition to carrying cargo or mail, are solely used to carry persons as listed in 129.28(d)(3), is then excluded from the retrofit requirements of 129.28(a)(2) and 129.28(c). This would at the same time solve the issue of conflicting requirements on those all-cargo airplanes (such as MD-11) equipped with an airworthiness placard requiring that the cockpit door be latched open during taxi, takeoff and landing.
- 129.28(a) includes a start date but not a termination date. As the requirement per 129.28(c) in practice means the complete replacement of a door meeting the 129.28(a) requirement, it would perhaps be logical to include in 129.28(a) a termination date of April 8, 2003.
- The costs as estimated in this Final Rule for a door retrofit range from \$17,000 to \$36,000 per aircraft. This figure may be representative for many aircraft types, but not for all. The cost for a door retrofit on the 747 Classic is estimated to be about \$190,000 per aircraft, excluding installation costs and downtime costs. It is proposed that the FAA adjusts the benefits and costs section and reconsiders whether the rule is still cost-beneficial for all kinds of operations, including all-cargo operations.

Sincerely Yours,
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